

INTERNATIONAL CITY MANAGERS' ASSOCIATION

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ADMINISTRATION OF LICENSES AND PERMITS

How can a city simplify, coordinate, and improve the permit and license issuing functions toward the end that responsibility is centralized, applicants promptly and effectively served, and the public interest protected?

Regulating certain activities of citizens through a system of licenses and permits is one of the principal tasks of city government. The techniques used are considerably different from those used in managing the service functions. But one principle common to both regulatory and service functions is that reliance for securing results is not placed on the use of authority or the threat of punishment. The major objective is to see that the regulations are observed and not that citizens are punished for failure to observe the regulations. Requiring persons in the regulated occupation or activity to secure a license serves (1) to identify for the enforcing authorities all persons engaged in the regulated activity, and (2) to permit the enforcing authorities to determine whether the applicant for the license is complying with the regulations.

A license is defined as an annual requirement for the privilege of engaging in a business or profession, generally involving payment of a fee, and usually subject to annual renewal and other conditions as set forth by law or regulations. A permit is usually an administrative grant of privilege for performing a specific task or activity, generally of short duration, the granting of which usually is subject to approval by some city official or agency under conditions set forth by law or regulations. In the larger cities the requirements and fees for licenses are higher than for permits, apparently owing to the greater costs of administration and enforcement. Where both are required the permit must precede the license.

Cities regulate and license amusement and recreational facilities of various kinds (theaters, circuses), the use of the public streets and alleys (peddling, taxicabs), businesses of special police concern (pawnbrokers, taverns), trades involving health and sanitation (restaurants, barber shops), businesses involving moral character (taverns, fortune tellers), and certain skilled trades, particularly those involving safety hazards. Licensing is not an objective; it is a part of inspection. In restaurant inspection, for example, the objective is public health, the method is inspection, and the documentation is licensure. Withholding or revoking the license is not a penalty--that lies in the closing of the restaurant.

The purpose of licensing is to regulate, and license fees are supposed to reimburse city for expenses incurred. The courts generally will interfere if the fee is exorbitant, except in states where cities have authority to license for revenue purposes. Another important consideration in regulatory licenses is that the city cannot regulate interstate commerce. It is often difficult, for example, to define specifically when canvassing and selling is interstate business and when it is not. But the interstate commerce clause cannot be used to avoid reasonable local regulations in every case.

Where the regulation has been the obvious and overwhelming expression of the police power, as in the case of milk control ordinances, the courts have upheld the applicability of the license regulations even though a portion of the milk supply

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concerned was shipped across interstate boundaries. Another legal principle is that a city council cannot prohibit a business or occupation unless it has the specific authority to do so. It is probably true that there are many prohibitory license fees (such as \$20 or \$30 per day fees for peddling) which have been effective because never questioned in court.

No business or occupation may be licensed unless there is some reasonable relation to the police power or unless licensing for revenue is authorized. The classification of persons and businesses subject to regulation cannot be arbitrary and subject to caprice of the council. The courts often will not tolerate an ordinance granting certain rights or privileges to residents of a city which are not granted to nonresidents. Where licensing is a revenue device there has been a trend in recent years toward a tax based on gross receipts or number of employees. The rate of the tax generally varies according to the type of business.

Still another purpose of licensing is to force compliance with laws not directly related to licensing. For example, some cities have experienced excellent results in requiring that before any occupation license is issued all city taxes levied against a particular business must be paid, including special assessments and real and personal property taxes.

This report deals chiefly with licensing businesses and occupations, but some attention is given to nonbusiness permits. Emphasis is placed on organization and methods of handling this function and not on details of procedures.

Legislative Functions. It is the business of the council to: (1) select the types or classes of business and occupation which are to be regulated by the municipality; (2) stipulate the qualifications which shall be met by the license applicants; (3) stipulate the restrictions and standards which shall govern the operation of the licensed business or operation; (4) fix the fees; (5) prescribe the administrative procedure for license issuance, transfer, suspension or revocation; and (6) prescribe the duties of administrative personnel in the follow-up inspection of the license and prosecution of violations.

Many decisions must be made in connection with adopting or revising a licensing system. The city must determine its legal power to license and decide whether it desires revenue as well as regulation. If it is decided that the license should be easy to obtain, the procedure would be that it would be issued unless the issuing official has good reasons for denying the license. If rigid qualifications are necessary the person asking for the license should be required to prove that he is entitled to receive the desired permit. If the purpose is to obtain revenue the license fee should be set at a point that will achieve an optimum return. If the purpose is to discourage a certain activity then a high fee should be required.

The next step is to make a list of all establishments in the community that can be licensed, decide on the types of license fees and taxes, and fix the appropriate rate structure for each type. Inequalities between business types should be eliminated, regressive rates avoided, and a flexible rate structure established to take care of changing business conditions. Cities that have revised their licensing system in recent years have placed chief emphasis on changing their base from a flat rate to a gross receipts base wherever possible. Such a base produces the most revenue, is easier to administer, and is more equitable.

The businesses and occupations licensed locally should be checked against the types of licenses issued by other cities in the state and elsewhere as a possible check for coverage and also for the amount of the license fee. Analysis should be made of the cost of licensing and inspections. It should be possible, for example, to ascertain whether the license fee for restaurants covers all costs such as time

devoted by the inspector, laboratory costs, transportation, overhead, and incidental costs, the total of which can be divided by the number of establishments licensed to get the unit cost.

Most cities of course already have a licensing system, but if it has not been examined as a whole for a number of years it may contain many inequities and some businesses may not even be licensed. A periodic review also results in eliminating conflicts and simplifying procedures. License ordinances that are similar in purpose and subject matter should be consolidated and their enforcement centralized. Restrictions which changed conditions have rendered unnecessary should be repealed. Broad principles that may serve as a guide in an over-all study are:

1. All businesses and occupations carried on for profit should contribute to the support of the city.

2. All businesses and occupations covered by the license tax, insofar as it is administratively feasible or desirable under the necessity to police certain types of enterprises, should contribute in proportion to the amount of business they conduct within the city.

3. Insofar as feasible or desirable no person should have to pay more than one license tax in order to engage in business in the city.

4. The council may consider setting up a fixed entry fee, as in some Southern cities, to help insure that every person engaged in business is licensed.

5. A higher fee should be considered for nonresidents who solicit business in the city but who do not maintain offices or plants in that city.

6. Competitors should be treated as near equally as possible.

7. License fees should at least cover all costs incident to regulation.

8. Clear and administrable standards required on the part of the business or occupation should be drafted in cooperation with groups concerned so that license systems can be used as a means of education and for the protection of the public.

9. If possible all types of licenses should be covered in a single ordinance. An alternate plan is to cover in one ordinance all businesses and occupations for which license taxes or fees are collected for revenue only, and in another ordinance those operations which require inspection by the health officer, fire chief, building inspector, or police chief, and in connection with which a certificate of compliance must be secured from the appropriate department before the license or permit is issued.

The legislative decisions should take into account federal and state regulations on the same subject and the federal and state inspection and enforcement procedure into which the city procedure should dovetail. In many cases federal and state regulation codes may be accepted as standard practice, needing only to be supplemented by municipal action. Whether the municipal jurisdiction exercised is concurrent, or supplemental, or exclusive, much can be gained by getting together with the regulatory agencies of other levels of government and planning a cooperative program of regulation. The affected citizens or businesses, as well as the public officials, should expect a minimum of duplication and conflict of law and enforcement.

In some cities a substantial part of the administrative power, particularly as regards license issuance and revocation is reserved for the council. In these cities the issuing officers are little more than clerical and financial agents; the real administrative arm of the city is the council committee or even the individual councilman. Some cities, when the ordinances legally place this responsibility on the

council, have developed the desirable habit of following the recommendations of the administrative officers. The issuance of individual licenses by the council occurs mainly in the fields of special police hazard, such as tavern licenses. But even in these cases it would be better if the council could be restricted to stating its policy in general, uniform laws--such as the character, financial, location, and other requirements for tavern applicants. Some appeal procedure, however, should be made available for "denial" cases and councils can serve in that connection, especially in the smaller cities. In the larger cities special appeal boards would seem preferable.

Administrative Functions. Administrative duties, pursuant to a carefully prepared license ordinance, ordinarily consist of: (1) receiving applications; (2) examining the applications or applicants as to compliance with the required qualifications--e.g., character investigation, testing of plan or equipment, examination of occupational or business competence, etc. (3) issuing of license; (4) collecting and accounting for the required license fees; (5) periodic inspection, as a regular routine or on complaint, of operations of the licensed business, along with the testing incident thereto; (6) prosecution of cases of violations found; and (7) suspension and revocation of licenses, usually subject to appeal.

The application of a license ordinance to a particular individual or business is a strictly administrative matter. It is the duty of the administrative officer to determine in the individual case whether the law is complied with by granting or denying the license. The license ordinance of course should be specific enough as to qualifications, regulations, and fees, so that any applicant or citizen can determine from reading the ordinance what he would have to do to secure a license. The granting of an individual license is thus an administrative matter and if the council grants individual licenses the council is exercising administrative functions. The administrative procedures should be covered in rules and regulations based on the license ordinance. Delegation of limited rule-making authority to the administrative officers generally has been sustained by the courts.

The goal of the city council and city administrator should be to set up a central agency so that citizens do not have to visit numerous offices to get necessary licenses or permits. The setup should be designed to provide for routing of papers and not people. The licensee should not be subjected to numerous independent inspections before the license is issued.

Citizens certainly should have full information on all licenses and permits. If they do not know where to go to get them or what is expected of them the result is distraction, inconvenience, and higher costs of doing business for the licensee and a greater volume of work for city agencies. Likewise, when several departments make inspections and the inspectors go about their duties independently, there is no standard number of times to inspect an establishment, no minimum of routine visits, no coordination between departments visiting the same place, and review of inspector's field work is often inadequate (see MIS Report No. 95).

Organization. Practice varies greatly among cities as to type of organization for issuing licenses and permits. As many as eight or ten departments in a given city may issue permits or licenses. Each department has its own forms and procedures; information on steps to be taken by the citizen is not readily available and there is little or no exchange of information between departments. In some cities, however, business and occupational licenses are issued directly through a central license bureau or division, but the issuance of permits usually is handled directly by the departments which enforce certain regulations affecting the activity permitted, as in the case of the building, fire, and health departments. Fees for both licenses and permits, generally are paid to a central office, usually the treasurer's office.

The first step toward reorganization is to make a study of all licenses and permits issued by the city. Information to compile for each type of license or permit includes authorization in state law, charter, or code; basis and amount of fee; period covered and expiration date if specified; approximate number issued annually; and an explanation of procedure followed, including where application is made, approvals necessary, procedure on issuance, inspections required, kind of forms used, amount of time required from receipt of application until issuance, and records maintained.

The administrative setup should assure speedy action in the issuance of licenses and permits. This will enhance citizen cooperation; citizens who seek licenses or permits should not be shunted from one office to another, perhaps waiting at some places only to find they are in the wrong office. When a citizen is required by law to secure permission to carry on an activity, the more delay and confusion he encounters the more reluctant he is to be regulated.

The first step toward simplification might be establishment of a central information bureau and the issuance of a check list enumerating the various licenses and permits required and the steps to be followed in obtaining them. The next step is to enlarge the work of the central license agency, or to create a new agency, which would issue all or most licenses and permits, collect fees, and make inspections. Perhaps the central agency should be in the finance department or in the city clerk's office. The building department in some cities may be the logical place while other cities may find that better results can be achieved if a new agency is set up. One factor to consider is the training and experience of the personnel available. The goal should be a single license and permit counter in the city hall.

The head of the central license and inspection agency should be appointed by the chief administrator. Employees in various departments who issue licenses and permits or who make inspections can be transferred to the central agency and this would be done gradually. The central license agency would issue and receive applications for licenses and permits and decide whether they should be granted. This latter decision would be based on the requirements and standards certified to the central agency by the several departments for which it acts, in cases where law or charter assigns certain license work to specific departments.

Under the direction of the chief administrator the heads of the health, police, fire, planning, building, public works, and other departments that issue licenses and permits should hold periodic conferences to work out details for the consolidation of such work, to develop common and uniform policies, and to simplify procedures. There should be little difficulty in centralizing the handling of many licenses and permits, such as marriage licenses; dog licenses; permits for circuses, transient merchants, use of loud speakers, picnics, parades, etc. Permits issued by the public works department--such as for street construction, curb cuts, and construction of vaults beneath streets--are of a routine character and if standards are set up the permits can be issued by the central license agency. When desirable or required, the preliminary examination of the plans or facilities of the applicant still can be made by another department before the license or permit is granted. If the central agency starts out on this basis more license and permit issuing duties can be transferred to it as employees are trained.

Cities should avoid, wherever possible, the setting up of licensing boards. Such boards tend to become little islands of independent power wielding authority in their sphere of operations under the name of the city but without corresponding accountability to the council or administrator. They tend to be controlled largely by trade and professional associations; the public point of view usually is not represented. There usually is lack of uniformity among such boards with regard to fees, examining procedures, and licensing requirements, and the result is inequitable treatment. Examining boards do not make the best use of personnel and modern testing techniques seldom

are used. A central licensing department may be served by advisory boards set up for some trades to assist in preparing examinations and to participate in hearings.

Reorganization Procedure. The steps taken in two cities (Rochester and Hartford) toward centralizing the issuance of licenses and permits provide lessons for other cities. The central license and inspection department which will be set up in 1952 in Philadelphia will provide the most complete centralization of any large city and for this reason the pertinent provisions of the new charter are reproduced at the end of this report.

Rochester, N. Y., in 1939 centralized in one office in its department of commerce the handling of 80 licenses and permits. A program of training was carried out to teach all employees of the central bureau the procedure to be followed on filing applications and the issuing of any permit or license. License counters were removed from the offices of the park, public safety, police, water, and public works departments and now the only licenses not handled by the central bureau are those placed by state law under the city clerk (marriage, dog, hunting, and fishes licenses) and the various health bureau permits which require rigid inspection. The central bureau thus provides a one-step service for the citizen seeking a license or permit. If an inspection is required the applicant pays the required fee conditionally at the time of filing his application. After the necessary inspection, which is performed by the department which formerly issued the license, the license is mailed or delivered to the applicant.

The Hartford, Conn., council-manager charter adopted in 1948 provides for a department of licenses and inspections headed by the chief inspector appointed by the city manager. The department consists of the division of buildings, division of standards of weights and measures, and a bureau of licenses. With regard to the latter the charter states: "The chief inspector shall maintain a bureau of licenses in which application shall be made for all permits and licenses required by the general statutes or ordinances of the city to be issued under authority of the city or any department, office or agency thereof, provided nothing herein contained shall exempt said bureau from compliance with any provision of the general statutes, this charter or the ordinances of the city which requires approval of any officer or agency of the city as a condition to the issuance of any permit or license, and in such case such approval shall be required to be endorsed upon or attached to the application for each such permit or license before issuance by the bureau. All permits and licenses shall be authenticated by the signature of the chief inspector or his authorized deputy. All fees for permits and licenses issued by the bureau shall be paid to the bureau for the account of the city."

The city's building supervisor was appointed head of the new department in Hartford, but because of lack of adequate office space in the city hall full centralization has not been effected. In order to comply with the charter, branch offices of the new department have been established in the various departments which in the past have issued licenses and permits, and certain employees in such departments have been made deputies of the head of the license department. Among the licenses and permits under the jurisdiction of the license department in Hartford but which are still handled in other departments are:

Police -- Licenses for bingo games, amusements, mechanical amusement devices, music vending machines, shooting galleries, bootblacks, taxicabs, rag-pickers, peddlers, secondhand dealers, pawnbrokers, lodging houses, billiard and poolrooms, and permits to sell pistols and revolvers and to carry concealed weapons.

Fire -- Permits for various kinds of storage tanks; to sell or store blasting caps; transportation of fuels; installation of oil burners; to buy, transport, and use explosives; to sell or install range and stove oil burners; to install fuel oil burner and tank; and licenses for lodging houses and places of assembly.

Public Works -- Curb and walk layer's license, permit for opening improved pavement, license for temporary use of streets, license for newsstand on sidewalk, license for fire escape encroaching over street line.

Health -- Licenses for food vendors, food establishments, day nurseries, milk dealers, and fumigators.

Various -- License for delivery of fuel oil, personal weighing machines, and auctioneers.

It should be pointed out that when steps were taken in Hartford to centralize the issuance of licenses and permits, it was found that in one year the fire department issued 4,692 indefinite permits (i.e., until revoked or suspended) chiefly for the use of oil burners in stoves or ranges or for the installation of fuel oil burners and tanks. Six departments or offices issued a total of 7,891 annual licenses and permits of 37 different types. This included 2,045 licenses for plumbers, electricians, and steamfitters; 700 sign, marquee, and awning permits; 400 food establishments; 350 fuel oil truck licenses; 950 mechanical amusement devices and music vending machines, and 880 rooming house licenses. Four departments issued 15,185 temporary licenses or permits (i.e. per day, per performance, period of job, etc.), 13,000 of which were building permits and permits relative to street excavations and sidewalk work.

It was found that most of these three types of licenses and permits could be centralized without much difficulty. Preliminary studies have been made by Hartford officials so that when office space becomes available the license and permit issuance functions can be fully centralized. These studies include a job analysis of administrative procedures relating to the issuance of licenses and permits and a study of all license fees in relation to cost of administration.

Application for License. Many cities still use a different form for each type of license but the trend in recent years has been toward the use of one general application form with a supplemental form where needed. Another good practice followed by some cities, as in Saginaw, Mich., is to combine several businesses of a similar nature and for which ordinance conditions are the same. By this method Saginaw has reduced the number of forms from 73 to 20. Detroit likewise has combined several similar activities on one application blank. In Kansas City, Mo., business license forms have been simplified so that all applications are made on one of five forms and the same forms are used for renewals. These forms are printed on electric tabulating machine (IBM) cards and to simplify handling and filing most supplementary forms have been standardized to the size of the IBM card.

Typical good practice followed in Saginaw, Mich., is for the applicant who applies for a license for the first time to fill out a comprehensive form at the central license office. The application form usually contains spaces for the name of applicant or business and address, type of business, residence and telephone number of applicant; whether proprietor has ever engaged in business in the city before; date, and applicant's signature. Space is provided for approval by the city planning commission, and building, health, and fire departments (if required), and the date of such approval. There is also space for information concerning bond to be filed, if any, and license fees paid and dates of payment.

The application is then reviewed by a member of the Saginaw license staff to see that all necessary information is provided. The applicant then pays the fee at the same office. Next the license office types the license form in quadruplicate. The first copy serves as a certificate of license, the second as a temporary receipt, the third is for the finance department, and the fourth is the file copy for the license bureau. The temporary receipt and the copy for the finance department

are sent along with the fee by pneumatic tube to the city treasurer's office where the two copies are marked paid, one copy being retained by the treasurer and the temporary receipt returned to the license bureau and given to the applicant with the license. The license bureau, however, retains the original or the certificate of license if the application must be approved by one or more city departments. The fourth or file copy is placed in a temporary file according to type of business and held there until the license has been issued.

Cities that use tabulating equipment, as in San Diego, for example, make one or two copies of the typed license form on IBM cards. One card is filed alphabetically by the licensee's name and the other filed in a visible rotary file by business location. From the application form a master set of IBM punched cards is prepared for use in renewal procedures. The application form is filed in a history folder for future reference.

It is possible to simplify procedures relating to applications for permits such as for residential and nonresidential construction. In San Diego, for example, when an applicant appears with building plans to secure zoning approval he is furnished with an "application and processing form" and a preprinted postal card for completion. While the applicant is completing these forms a clerk begins processing the building plans, and when the forms made out by the applicant have been checked the clerk detaches the two perforated plan file number stubs from the postal card and staples one to the building plans and gives the other to the applicant, who signs his name in a register containing plan filing numbers. The applicant may leave his plans for routing to the proper departments by the inspection division, or if his plans follow an approved master plan on file he may take his plans from department to department to secure the necessary permits in one visit. If the applicant follows the first method, usually three days is required to complete the checking and the postal card of notification is mailed to advise the applicant.

When it is desirable or more convenient for the citizen to apply to another office for a license or permit issued by the central bureau, the following procedure is used in Hartford. A taxicab driver's license, for example, requires investigation and approval by the police chief but is issued by the central bureau. The applicant applies at the police department where he is photographed, fingerprinted, and application is made out in triplicate with blue and white copies retained by the police and the red copy sent to the central bureau together with the fee. The red copy is put in the pending file in the bureau, while the police department checks local records on the applicant and forwards fingerprints to the FBI for a report. After the chief is satisfied, he notes his action on the white copy which is sent to the bureau and on which he has indicated the license number to be assigned. Upon receiving the white copy the bureau destroys the red copy in the pending file, issues license and badge, and completes the reverse side of the application. Both the central bureau and the police keep a numerical and alphabetical list of taxicab drivers' licenses.

Payment of Fees. The financial side of licensing, while under the control of the city finance officer, should be coordinated with the taking of applications. A representative of the treasurer's office may be assigned as cashier to the license bureau or a license bureau employee may be a deputy of the treasurer's office. Most cities provide for receiving license and permit fees at an office convenient to the public. If received by the license bureau the money is transmitted (in some cities by pneumatic tube) to the treasurer's office. The license documents should be issued by the license bureau, even if subjected to accounting control. If refunds of deposits are involved, a prompt convenient procedure should be provided.

Referral to Other Departments. Most of the work connected with applications for the first license is handled by the central license agency but in many instances it is necessary to refer the application to the departments having jurisdiction over the activity concerned before the license is issued. The general application form remains in the license department, and the supplemental forms are sent for checking to the proper department.

Most cities require health department approval for food licenses and police department approval for liquor licenses. The building and engineering departments also check on the applications in their respective fields and in some cities applications for plumbing and electrical licenses must be approved by the public works department. Obviously, such referrals would not be made where most license and permit issuing functions have been consolidated with inspections.

The supplementary form can be prepared by the license office and forwarded to the police and other department concerned for approval. One copy is retained by the approving department and the other, when approved or rejected, is returned to the license office. The application may be routed by the treasurer's office or by the applicant personally. The planning department may review all applications for conformance to zoning regulations and the health department review applications of all food handling establishments. When applications require such routing the license can be mailed to the applicant.

Copies of license applications generally are sent to the police department where the moral character of the applicant must be examined. Police generally check applications for liquor and taxi driver licenses, junk peddlers, dance and pool halls, pawn brokers, bowling alleys, and amusement and vending devices. In some cities applications for many of these types of licenses are not granted without the approval of the police.

The central license agency should not be required to transmit to the various city offices concerned a copy of every application for a license, or a copy of every license issued or renewed, or a copy of every notice of refusal, suspension, revocation, or cancellation. This would require a large number of forms and additional filing space. It would seem that written notification in the form of a periodic report would accomplish the desired result.

Issuance of License or Permit. When all the necessary approvals have been recorded on the application or on the supplementary form, it is returned to the license bureau and the original copy of the license is delivered to the licensee, along with any badge, plate, or sticker required. If the central license agency also handles inspections it may be possible in some instances to issue the license immediately or at least sooner than where considerable routing is required.

It may not be necessary to type duplicate copies of the license. Some cities prefer a permanent alphabetical file of licensees on which required information can be noted and which can be kept up to date. Many cities have adopted simplified procedures for building permits. San Diego, for example, uses a single form for building, electrical, sewer, sidewalk, curb, and other types of permits. This form is designed for typewriter; it contains spaces for street address of job, name of owner, name of contractor, legal description, type of permit, plan file number, amount of fee, and other information.

License Renewals. Licenses generally are issued on an annual basis so that all expire at the same time, the fees being prorated for unused portions of the license year for licenses issued after the beginning of the year, usually by the month or

quarter of year. The plan of having licenses expire at the same time facilitates enforcement procedures, but some cities in order to spread the work more evenly over the year date licenses at the beginning of the month when application is made and colored tabs are placed on the master file cards to indicate expirations by month.

Renewal notices generally are mailed out to licensees 10 days prior to the due date. Some cities offer a 10 per cent discount for prompt payment, and the license generally is issued immediately upon payment of the fee. Through the use of IBM punchcard equipment, or master cards prepared from the first license application, it is possible to prepare in advance of the renewal date a short-form renewal application for mailing to the licensee, prepare renewal licenses for issuance, sort renewal applications and license duplicates into the proper sequence for cross-reference filing, and accumulate and classify a variety of statistics concerning the characteristics of licenses issued.

When the short-form renewal application is mailed out a statement giving simple concise instructions should be enclosed with a view to handling by mail a large percentage of renewals. This simplifies the handling of peak workload for the office force and results in better public relations. When renewal applications must be approved by an agency other than the central license bureau, the processing of the completed application can be greatly facilitated if such approval is secured and recorded by the license agency immediately prior to the mailing of the renewal notices or applications. When the applications are returned they can be checked with records available in the license agency and the issuance of license need not be delayed.

Approval by City Council. There is the widest possible variation among cities regarding the number and kind of licenses and permits which require approval by the city council or other body. As a rule city council consent is required principally for amusement, recreational, and liquor licenses. In some cities as in Detroit the city council is consulted only in cases of variation from the ordinances.

Licenses involving the checking of moral character often require the consent of the city council. In some cities the council must approve applications for collection agencies, taverns, and circuses. Standards set up in the license ordinance should enable administrative officers to issue licenses without further council action.

Bond for Compliance. Although most of the cities of all sizes require bonds for certain types of licenses, the requirements differ as to the specific licenses, the amount of the bond, and the bond approval agency. In the larger cities the most common types of businesses requiring a bond are auctioneers, billboards and posters, carnivals and circuses, employment agencies, gasoline tanks, heating contractors, house movers, junk dealers, pawnbrokers, parking lots, peddlers, plumbers, transient merchants, and travel bureaus. Bonds generally must be secured by a surety company or by a property owner, and approved by the city attorney as to form. In some cities the bonds must be approved by the city clerk, city attorney, and city manager.

Suspension and Revocation. The suspension and revocation of licenses, like their issuance, are administrative functions. Licenses are suspended or revoked when illegally secured, i.e., on the basis of incorrect information submitted in the application, or on the ground of violation of specific provisions of the licensing ordinance or other laws and ordinances of the city. A license may be suspended by the police department for violation of express terms under which granted and accepted, or for violation of any ordinance of the city, and reported to city manager or council.

In some cases suspension may be made by the manager "whenever, in his judgment, it is for the best interests of the community to do so, having in mind the welfare, safety, and health of the city." The license may be revoked by manager for above causes "after giving licensee reasonable notice and opportunity to be heard." License

also may be suspended or revoked for violation of express terms of the ordinance with no refund of fee. If a license is revoked in the exercise of the general power of the manager or council generally a portion of the fee is refunded. It is desirable that licenses revoked by administrative officers shall be reported to the next council session.

The appeals in cases of revocation can be to the council or a special appeal board, as suggested in the case of denials. This method of handling appeals has a psychological advantage and may prevent an appeal to the courts. Presumably the council, being somewhat detached from administration, can give an impartial scrutiny to the matter in question, and would know the legislative intent in the passage of the ordinance. The objection that this might be used as an avenue for council interference in the administration is more theoretical than real. In nine cases out of ten it would be presumed that the relation between the manager and the council would be one of mutual confidence and respect.

Enforcement. The license bureau generally relies on police department cooperation in enforcing regulations and in handling delinquents. Employees of the central license agency should have power to enter any place required to be licensed and to examine records. In some cities licenses not renewed within 10 days after expiration date are referred to the city attorney's office, while other cities allow 30 days before a license is considered delinquent. Usually delinquency notices are mailed, and if the licensee does not respond to this notice within a reasonable time he is reminded by a friendly telephone call.

Some cities get good results by adding a 10 per cent penalty to all fees for license renewals after the beginning of the license year, while other cities add a 10 per cent delinquency penalty after 30 or 60 days. In Kansas City, Missouri, for example, a 10 per cent penalty is added to the fee after 60 days and this penalty is increased 2 per cent each month until the fee is paid. After the allowed time licensees who have failed to renew their licenses should be visited by an employee of the license bureau or by a police officer. Most delinquents generally pay up or the license bureau receives reports to the effect that the licensee has discontinued business.

In some cities the central license bureau each week sends a report of licenses issued, renewed, or revoked to the police department. In some large cities special police officers are assigned to handle the checking procedure. A few cities have found it effective to send delinquent licensees a postcard notice signed by the police chief. Other cities rely on police aid only where an actual violation occurs or upon specific request of the license agency.

Where the license fee is fixed on the basis of gross receipts, the collecting agency should have the legal authority to examine the records of the licensee to determine the accuracy of the return. Competent personnel qualified in this field should be engaged for performing this service. Where the volume of this work does not justify a full-time staff the work may be done by the central accounting agency of the city or on contract with an outside accounting firm.

Records. Every city should maintain some type of consolidated record of licenses and permits. The most common record is the card index, alphabetically arranged either by type of license or name of licensee, and chronologically by up-to-date street address records. In addition some cities keep a complete street directory of licenses up to date by daily posting of additional information. One large city has an alphabetical visible file and a chronological file on addressograph plates. A visible ledgercard system is commonly used and renewals can be recorded on the master card file. Cities that have a central license and inspection agency find it easy to maintain a central license file which shows the detailed status and history of all licenses--application, investigation reports, fees, issuance, transfers, inspection

reports, complaints and reports thereon, suspensions, revocations, appeals, prosecutions, etc.

A simple records system is a master card file using 4x6-inch cards on which can be posted information such as the name of the licensee; type of business; license year; license number; date of application; plate, badge, or sticker number, if any; fee paid; and initials of the employee doing the posting. If a bond is required the effective dates are posted on the card. Agents of bonding and insurance companies should cooperate so that bonds would be issued for periods which coincide for the period for which the license is issued. Each card record should have sufficient space for a 10 or 15-year record of any licensee. If a business is sold a record of the date and new licensee can be entered after the last entry and the card filed alphabetically in a cancelled file and a card made for the new licensee.

Decisions should be made as to disposition of records, such as time to be kept in active file, time in inactive file, time in dead file, and time when records should be destroyed. The advisability of microfilming when the inactive stage is reached should be considered. In Berkeley, Calif., for example, the city council recently authorized the public works director to destroy plumbing, electric, building, gas, and sewer job cards and receipt books from 1906 to 1946, since the state law required that such records need be kept for only five years. With regard to building plans for this period, however, it was decided that the city should advertise in a local newspaper that citizens interested in their house plans could obtain them on request at the city hall and that for the next six months the building department would keep a record to see how many citizens called for their plans. After that time the manager and council will determine what disposition to make of the building plans more than five years old.

Large cities with a large number of licenses and permits should mechanize their operations in the handling of mail and the use of time-stamp equipment to facilitate control. Tabulating equipment in the larger cities is used to keypunch a master file of cards with pertinent data regarding each licensee. Such data punched and verified provide high-speed, automatic production of renewal notices, registers of license fees and licenses, receipts of payment, collection records, geographical listings for inspectors, alphabetic indexes of licensees, and so on.

The maintaining of records of insurance and the processing of policies in connection with liability insurance is costly from the city's standpoint. The city should not allow any conditions on public properties that are hazardous to the public. If hazardous conditions are not allowed there are very few cases in which the requiring of insurance is necessary. Liability insurance might be retained in the case of sidewalk elevator openings, coal hole openings, underground vaults, and stairwells which project onto sidewalk right-of-ways, but with regard to most other matters covered by regulatory ordinances the city should consider eliminating insurance.

Public Relations. Few licenses are popular. The negative approach and legalistic paraphernalia surrounding municipal licensing have brought indifference or resentment from the general public as well as those licensed. The licensee feels that it is merely a device for getting more money out of his pocket with little or no return in service. The public usually is unaware of the protection afforded by licensing, especially the minimum standards a license is supposed to guarantee.

The centralization of license administration is the first step toward better public relations. If that is not done the establishment of a central license information bureau is essential. Next is the simplification of license forms and procedures and preparation of an instruction manual to guide license applicants. Such a guide should show, for example, all the licenses and permits required.

To require the citizen to run a maze of departmental offices to get a license or permit is an irritating and time-consuming practice. Licensees should not have to visit numerous offices in order to get necessary permits. Neither should the licensee be subjected to numerous independent inspections before the license is issued.

Citizens certainly should have full information on all licenses and permits. If they do not know where to go to get them or what is expected of them, the result is distraction, inconvenience, and higher costs of doing business for the licensee and a greater volume of work for city agencies. Likewise, when several departments make inspections and the inspectors go about their duties independently, there is no standard number of times to inspect an establishment, no minimum number of routine visits, no coordination between departments visiting the same place, and review of the inspector's field work is often inadequate.

Relations with the public also can be improved by adequate notice to applicants who have requested hearings and prompt handling so that they will not have to wait for long periods or make another trip to the city hall. The best public relations lies in a modern, effective licensing procedure that offers protection to the public and at the same time reduces to a minimum the number of irritating contacts involved in applying for a license or in the inspection process.

Note: Officials of cities that subscribe to MIS may obtain on request loan copies of (1) license and permit application forms used in several cities, (2) a typical business license ordinance, (3) a pamphlet entitled "Administrative Requirements for Building Codes" (American Standards Association, 1944). Grateful acknowledgment is made to the following officials who supplied detailed information concerning their practices or reviewed tentative drafts of this report: Rollin F. Agard, director of finance, and Graham W. Watt, research and budget department, Kansas City, Mo.; O. K. Cope, budget officer, San Diego, Calif.; C. F. Sharpe, city manager, and William J. Ennis, chief inspector, department of licenses and inspections, Hartford, Conn.; and Frank B. Niederstadt, city clerk, Saginaw, Mich.

(OVER)

DEPARTMENT OF LICENSES AND INSPECTIONS AND ITS DEPARTMENTAL BOARDS

This is Chapter 10 of the new home-rule strong-mayor charter adopted by the people of Philadelphia on April 17, 1951, and which becomes effective in January, 1952. The head of the license and inspection department will be appointed by the managing director who in turn is appointed by the mayor.

Section 5-1000. Powers and Duties in General. Except as otherwise specifically provided in this charter, the Department of Licenses and Inspections shall exercise the powers and perform the duties relating to licensing and inspection formerly exercised and performed by all officers, departments, boards and commissions of the City and such other powers and duties as are imposed or conferred upon it by this charter or by ordinance.

Section 5-1001. Definitions. In this chapter:

(a) "License" shall mean any license or permit required by statute, ordinance or regulation to be obtained from any officer, department, board or commission as a prerequisite to engaging in any activity or having possession of or using any property but shall not include the right to admission to any facility in any park or under the jurisdiction of the Department of Recreation.

(b) "Inspection" shall mean any inspection, test or examination to which any person is subject as an applicant for or a holder of a license or to which any property is subject under any statute, ordinance or regulation which it is the duty of the Mayor or of any other officer or of any department, board or commission to enforce.

Section 5-1002. Functions. The Department of Licenses and Inspections shall have the power and its duty shall be to perform the following functions:

(a) *Building Safety and Sanitation, Signs and Zoning.* It shall, except as otherwise specifically provided in this charter, administer and enforce all statutes, ordinances and regulations for the protection of persons and property from hazards, in the use, condition, erection, alteration, maintenance, repair, sanitation (including the maintenance and condition of plumbing and drainage facilities and the maintenance of sanitary conditions in housing accommodations), removal and demolition of buildings and structures or any parts thereof and the grounds appurtenant thereto, in the operation of equipment therein, and of outdoor signs. Subject to the powers and duties of the Zoning Board of Adjustment, the Department shall enforce compliance with zoning ordinances.

(b) *Issuance of Licenses.* The Department shall:

(1) Issue all forms for applications and receive all applications for any license;

(2) Determine whether the applicant is properly entitled to the license which he seeks;

(3) If the application is granted and the proper fee has been paid to the Department of Collections through its employees in the Department of Licenses and Inspections, issue the license to the applicant, either for itself or as agent for the officer, department, board or commission under whose jurisdiction the subject matter thereof falls;

(4) If the application is refused, notify the applicant in writing of the refusal and the reasons therefor.

The procedure shall be the same for original applications and for applications for transfer or renewal.

The requirements and standards to be met by applicants for licenses shall be established by the Department in all cases in which the Department is responsible for the functions involved. In all other cases, the requirements and standards shall be certified to the Department by the officers, departments, boards or commissions for which the Department is acting. The Department, when in doubt concerning the interpretation to be placed on the certified requirements or standards, may consult the certifying officer, department, board or commission, but the Department shall make the decision whether the license should be granted.

(c) *Inspections.* The Department shall make all inspections except as otherwise specifically provided in this charter.

The standards to be met upon inspections shall be established by the Department in all cases in which it is responsible for the function involved. In all other cases, except where the inspection is provided in this charter to be made by any officer, department, board or commission other than the Department of Licenses and Inspections, the standards shall be certified to the Department of Licenses and Inspections by the respective officers, departments, boards or commissions for which the Department is acting.

The Department shall train and maintain a competent force of inspectors, who, to the extent practicable, shall make single inspections within the scope of the functions of the Department to determine compliance with statutes, ordinances and regulations.

(d) *Enforcement.* The Department shall determine as the result of its inspections whether any person or the owner of any property is violating the conditions of any license, or whether or not any property owner is violating any statute, ordinance or regulation which it is the duty of the Department to enforce.

If the Department shall find a violation to exist, it shall forthwith make such order or take such other lawful action as may be necessary to correct the dangerous or unlawful condition, and if necessary it shall invoke the assistance of the Law Department or the Philadelphia Police or both.

(e) *Revocation, Suspension or Cancellation of Licenses.* Whenever the Department finds that the holder of any license is violating the conditions thereof, and when-

ever the officer, department, board or commission as whose agent the Department granted the license directs the Department to do so, it shall revoke, suspend or cancel the license. Any revocation, suspension or cancellation shall be in writing and shall state in detail the reasons therefor.

(f) *Special Inspections on Request.* The Department, on request of any officer, department, board or commission, shall make a special inspection of any property upon which unlawful conditions are believed to exist or of the manner in which the holder of any license is operating under it.

Section 5-1003. Copies and Reports. The Department of Licenses and Inspections shall:

(a) Transmit to the officer, department, board or commission primarily concerned with the subject of any particular category of licenses, a copy of every application for such a license or its transfer or renewal, of every such license issued, renewed or transferred, and of every notice of a refusal, suspension, revocation or cancellation of such a license;

(b) Transmit to the officer, department, board or commission primarily concerned with the subject of any particular category of inspections, a report of every such inspection made by it and the results thereof, a copy of every notice or order issued and a report of any other action taken as a result of such an inspection;

(c) Transmit to the City Solicitor a report of every violation of any statute, ordinance or regulation concerning any license, or discovered upon any inspection.

Section 5-1004. Right of Entry. Subject to the limitations of the Constitutions of the United States and of the Commonwealth of Pennsylvania, any officer or employee of the Department of Licenses and Inspections, in the performance of his duties, may at any reasonable hour, without hindrance, enter, examine and inspect all vessels, vehicles, premises, grounds, structures, buildings, and underground passages of every sort, including their contents and occupancies, and may likewise examine, inspect and test any substance, article, equipment or other property.

Section 5-1005. Board of License and Inspection Review. The Board of License and Inspection Review shall provide an appeal procedure whereby any person aggrieved by the issuance, transfer, renewal, refusal, suspension, revocation or cancellation of any City license or by any notice, order or other action as a result of any City inspection, affecting him directly, shall upon request be furnished with a written statement of the reasons for the action taken and afforded a hearing thereon by the Board of License and Inspection Review. Upon such hearing the Board shall hear any evidence which the aggrieved party or the City may desire to offer, shall make findings and render a decision in writing. The Board may affirm, modify, reverse, vacate or revoke the action from which the appeal was taken to it.

Section 5-1006. Zoning Board of Adjustment.

(1) In accordance with any statute or ordinance as now or hereafter in force, the Zoning Board of Adjustment shall:

(a) Hear and decide appeals in zoning matters where error is alleged in any order, requirement, decision or determination made by an administrative official in the enforcement of zoning ordinances, regulations and maps;

(b) Hear and decide special exceptions to any zoning ordinance upon which the Board is required to pass;

(c) Authorize, upon appeal, in specific cases, such variance from the terms of any zoning ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(2) In the exercise of its powers, the Zoning Board of Adjustment may reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as ought to be made, and, to that end, it shall have all the powers of the officer from whom the appeal is taken.

Section 5-1007. Board of Building Standards. The Board of Building Standards shall:

(a) Advise the Commissioner of Licenses and Inspections, upon his request, on the interpretation of the Building Code and of any regulations relating to building safety and sanitation;

(b) Suggest regulations applying standards of good practice in the enforcement of statutes and ordinances dealing with building safety and sanitation;

(c) Upon request of the Commissioner of Licenses and Inspections pass upon the worth of new and substitute materials proposed to be used in building construction and also upon new methods of construction;

(d) Consider any suggested changes in standards and regulations, new and substitute materials, or new methods of construction, either with or without holding public hearings; but before the Board shall recommend any change or modification of such standards and regulations, it shall hold a public hearing at which all interested parties may present their views. After such public hearing the Board shall submit its findings and recommendations to the Commissioner of Licenses and Inspections for his approval. Upon approval by the Commissioner they shall become a part of the standards and regulations.